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November 24, 2008

THOMAS F. MCFARLAND

By e-filing

Ms. Victoria Rutson  
Chief, Section of Environmental Analysis  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423

Re: STB Docket No. AB-1022X, *Arizona & California Railroad Company -- Aband. Exempt. -- in San Bernadino and Riverside Counties, CA*

Dear Ms. Rutson:

This is an Environmental Comment in behalf of the City of Blythe, California (the City) in response to a Draft Environmental and Historic Report (Environmental Report) that was mailed to the City's Mayor Robert A. Crain by Arizona & California Railroad Company (ARZC) on October 31, 2008.

The City is a member of an ad hoc group of shippers and other local interest known as the Committee for Preservation of the Rice-Blythe-Ripley Rail Line (the Committee) that intends to oppose ARZC's abandonment application on the merits. ARZC is a wholly-owned subsidiary of Rail America, Inc., which, in turn, is owned by Fortress Investments. The Board is well aware of the service problems recently encountered by customers of another Rail America subsidiary, Central Oregon & Pacific Railroad, Inc. (CORP). The service and other problems encountered by ARZC's customers have been even worse.

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The City recognizes that the Environmental Report is distinct from the transportation merits of the abandonment application. Nevertheless, this Environmental Comment is submitted to correct blatantly false and misleading statements that are contained in the Environmental Report.

### **COMMENTS**

**1. Proposed Action and Alternatives (Environmental Report, first unnumbered page):**

ARZC states that it transported only 210 cars to points on the Line in 2007. There is an implication from that statement that that traffic volume accurately reflects the demand for rail service on the Line. That is not so. In 2007, ARZC provided deplorable rail service and imposed a surcharge of \$800 per car. The surcharge prevented a large volume of grain from being transported by rail. In addition, large volumes of gypsum and calcium carbonate, and greater volumes of fertilizer and agricultural chemicals would move by rail to or from the Line if rail service was adequate. The Committee's evidence on the merits will show a demand for many times the 2007 traffic volume.

**2. Proposed Action and Alternatives (Environmental Report, second unnumbered page):**

The following ARZC allegation on the second unnumbered page of the Report is blatantly false:

ARZC has reduced the frequency of service over the past several years due to the condition of the Line and the demand for service . . .

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ARZC reduced and eventually eliminated rail service all right, but its actions had nothing to do with track conditions or shipper demand. ARZC curtailed service and failed to channel any of its substantial surcharge revenues into track maintenance in furtherance of a systematic plan to deliberately downgrade rail service on the Line, thereby facilitating its abandonment.

In a classic example of euphemism, ARZC stated, at the same unnumbered second page of the Report:

... (I)n 2006 ARZC served the Line two to three times per month, as needed, and in 2007, service was sporadic ...

The facts are that, with loaded cars awaiting delivery:

- ▶ in October-November, 2006, the Line went 25 consecutive days without rail service;
- ▶ in January, 2007, the Line went 35 consecutive days without rail service.

There were many other similar service failures. Rail service indeed was “sporadic,” but it was a far cry from being service “as needed.”

As if ARZC’s deplorable rail service were not enough to chase rail traffic off the Line, ARZC imposed a surcharge of \$800 per car on traffic to or from the Line. Despite the “sporadic” ARZC rail service and that hefty surcharge, 210 carloads were transported over the Line in 2007. ARZC realized \$168,000 in additional revenue from that surcharge. However, instead of using that surcharge revenue for maintenance of the trackage, ARZC pocketed all of that extra income, and instead imposed an embargo of all traffic on the Line in December, 2007. ARZC no doubt would have kept that embargo in effect indefinitely without filing for abandonment authority if

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its affiliate, CORP, had not been required by the Board to show cause why its lengthy embargo had not ripened into an unlawful abandonment.

In January, 2008, the City had an opportunity to file an application in behalf of ARZC for track rehabilitation funding from the Trade Corridors Improvement Fund. However, ARZC failed to provide information that was essential for inclusion in the application on a timely basis. As a result, the incomplete application could not be filed, and the opportunity for track rehabilitation funding was lost.

ARZC's deplorable rail service, its prolonged embargo of all rail service, its misused exorbitant surcharge, and its failure to cooperate to obtain track rehabilitation funding, combine to compel a finding that ARZC deliberately downgraded the Rice-Blythe-Ripley Line in order to facilitate the present application for abandonment. That unlawful conduct should lead to denial of the abandonment application.

3. **Proposed Action and Alternatives (Environmental Report, second unnumbered page):**

AZRC's statement -- that the condition of the Line is critical because of the hazardous materials handled over the Line -- is materially misleading. In point of fact, using the rail line for transportation of hazardous materials, compared to truck transportation, reduces the potential for an accidental spill because:

- (1) Trucks travel in a much more public and congested roadway compared to the very remote route of the railroad. It takes approximately 4.5 trucks to transport the same volume of commodity that is transported in a single railcar. That means that

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- hazardous materials would be handled 4.5 times more in truck transportation than in rail transportation, correspondingly increasing the potential for a mishap; and
- (2) it is inaccurate and misleading to suggest that hazardous materials can be transloaded safely from railcars to trucks. In fact, since receivers were forced to use such transloading for anhydrous ammonia, there already have been two incidents that resulted in releasing anhydrous ammonia during the transloading process on the ARZC track at Rice, CA. Those incidents resulted in potential public exposure to a hazardous substance, response by County, State, and Federal emergency agencies, and the closure of public highways. The sites suggested by AZRC for transloading hazardous materials do not have the proper containment and safety systems in place; and
- (3) the rail line does not get closer than 4.5 miles from the Colorado River. Any hazardous material spill over a canal or drain could be contained and localized, preventing any effect on the River. All of the canals and drains flow away from the River until they converge approximately 19 miles beyond the south terminus of the rail line.

4. **Transportation System** (Environmental Report, second unnumbered page)

Contrary to ARZC's contention on the second unnumbered page of the Report, the proposed abandonment would have a serious adverse effect on regional and local transportation systems and patterns.

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Because of ARZC's deliberate downgrading of rail service on the Line, it is not appropriate to consider only the effect of diversion to trucks of the 210 railcars that survived ARZC's inadequate service and surcharge. But for that deliberate downgrading, rail traffic would have been multiple times that number. Abandonment would forever preclude a return of that traffic to rail service, where it rightfully belongs. An environmental finding is thus dictated that the proposed abandonment would be seriously harmful to regional and local transportation system and patterns.

**5. Land Use (Environmental Report, third unnumbered page)**

ARZC is flat-out wrong in alleging that the proposed abandonment would be consistent with local and regional land use plans.

The City's land use plan has consistently contemplated rail transportation of bulk agricultural commodities produced or consumed in the City and its surrounding area. Rail service has an inherent advantage over trucks for long-haul transportation of grain and fertilizer. In addition, the owner of a gypsum mine at Inca desires to ship mine product by rail, but ARZC has shown no interest in transporting that traffic. Only ARZC's deliberate downgrading of rail service is preventing transportation of all of that traffic by rail.

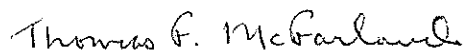
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6. **Conclusion**

WHEREFORE, the Board and its Environmental Staff are respectfully requested to take the foregoing comments into account in preparing an Environmental Impact Statement or Environmental Assessment in this matter.

Respectfully submitted,



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